

DEPARTMENT OF TAXATION

2013 Fiscal Impact Statement

1. **Patron** William M. Stanley, Jr.

2. **Bill Number** SB 749

3. **Committee** Senate Finance

House of Origin:

 X **Introduced**

 Substitute

 Engrossed

4. **Title** Tax Credits for Donations to Science,
Technology, Engineering, or Math
Educational Programs at Qualified Schools

Second House:

 In Committee

 Substitute

 Enrolled

5. **Summary/Purpose:**

This bill would allow taxpayers to claim a credit against the individual income tax, corporate income tax, bank franchise tax, insurance premiums license tax, or tax on public service corporations equal to 65 percent of the donation made to a STEM organization approved by the Department of Education. The STEM organizations would then be required to disburse at least 90 percent of the amount of each donation for which a tax credit is received to qualified schools for use in science, technology, engineering, and math (STEM) programs. The total amount of credits available in any given fiscal year would be capped at \$25 million. Any unused tax credits would be carried over for five years.

This credit would be effective for taxable years beginning on and after January 1, 2014, but before January 1, 2019.

6. **Budget amendment necessary:** Yes.

Item 137, Department of Education

7. **Fiscal Impact Estimates are:** Preliminary. (See Line 8.)

7a. **Expenditure Impact:**

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Positions</i>	<i>Fund</i>
2012-13	\$0	0	GF
2013-14	\$111,000	1	GF
2014-15	\$111,000	1	GF
2015-16	\$111,000	1	GF
2016-17	\$111,000	1	GF
2017-18	\$111,000	1	GF
2018-19	\$111,000	1	GF

8. Fiscal implications:

Administrative Costs – Department of Taxation

The Department of Taxation considers implementation of this bill as routine, and does not require additional funding.

Administrative Costs – Department of Education

The Department of Education would have administrative costs of \$111,000 annually, beginning in Fiscal Year 2014. These costs would include the salary and benefits for one additional staff position.

Revenue Impact

This bill would reduce General Fund revenues by an unknown amount, beginning in Fiscal Year 2015. The number of taxpayers that would donate to scholarship foundations and meet the requirements to claim the credit is unknown, as is the amount they would donate. Based on Department of Education data on the National School Lunch Program, 74 Virginia public schools could qualify to receive tax credit-derived funds.

The maximum amount of credits that could be issued annually would be \$25 million. The maximum credit amount would be reached once approximately \$38.5 million worth of annual monetary contributions was approved by the Department of Education.

9. Specific agency or political subdivisions affected:

Department of Taxation
Department of Education

10. Technical amendment necessary: No.

11. Other comments:

Educational Improvement Scholarships Tax Credit

Effective for the 2013 taxable year, taxpayers may earn an Educational Improvement Scholarships Tax Credit equal to 65 percent of the monetary donation made to a qualifying scholarship foundation. This credit may be claimed for the taxable year following the year of contribution, and may be applied against the individual income tax, corporate income tax, bank franchise tax, insurance premiums license tax, or tax on public service corporations. For taxpayers making estimated tax payments, the credit is prorated equally against estimated tax payments made in the third and fourth quarters of the taxable year in which the credit may be claimed, and the final tax payment.

Tax credits are awarded to taxpayers on a first-come, first-served basis. The total amount of credits available in any given fiscal year is capped at \$25 million. No tax credit is allowed if the monetary donation is less than \$500. No more than \$50,000 in tax credits may be issued to an individual or to married persons in a taxable year. The

\$50,000 limitation does not apply to credits issued to any business entity, including a sole proprietorship. Any unused tax credits may be carried over for the next five succeeding taxable years or until the total amount of credit has been taken, whichever is sooner.

Taxpayers are required to request and receive preauthorization for a specified tax credit amount from the Superintendent of Public Instruction. The preauthorization notice must accompany the donation from the taxpayer to the scholarship foundation. The scholarship foundation is then required to return the notice to the Department of Education within 20 days certifying the amount of the donation and date received. A taxpayer is required to make the preauthorized contribution within 60 days of issuance of the notice. In addition to being preauthorized, taxpayers claiming credit for a contribution are required to submit verification from each scholarship foundation to which monetary donations have been made.

For purposes of this credit, a "scholarship foundation" is defined as a nonstock, nonprofit corporation that is exempt from taxation under IRC § 501(c)(3), that has been approved by the Department of Education, and that is established to provide financial aid for the education of students residing in the Commonwealth. In order to be approved to receive and administer tax credit-approved funds, scholarship foundations are required to apply to the Department of Education. The Department of Education is required to issue a notice of approval or denial, including reasons for denial to the applicant within 60 days after the application is submitted.

A scholarship foundation is required to disburse at least 90 percent of the amount of each donation for which a tax credit may be received within one year of such donation for "qualified educational expenses" through scholarships. Tax credit-derived funds not used for such scholarships may be used only for the administrative expenses of the scholarship foundation. "Qualified educational expenses" means school-related tuition and instructional fees and materials, including textbooks, workbooks, and supplies used solely for school-related work. Scholarship foundations must provide receipts to individual taxpayers for their contributions.

By September 30 of each year, each scholarship foundation is required to provide the following information to the Department of Education:

- The total number and dollar amount of contributions received between September 1 of the prior calendar year and September 1 of the current calendar year,
- The dates when such contributions were received, and
- The total number and dollar amount of qualified educational expenses scholarships awarded for the school year that began during the current calendar year.

Any scholarship foundation that fails to disburse at least 90 percent of any donated amount within one year or that fails to provide the required report by September 30 is removed from the annual list published by the Department of Education and is not entitled to request preauthorization for additional tax credits, nor is it entitled to receive and administer additional tax credit-derived funds.

In awarding scholarships from tax credit-derived funds, the scholarship foundation is required to (i) provide scholarships for qualified educational expenses only to students

whose family's annual household income is not in excess of 300 percent of the current poverty guidelines or any eligible student with a disability; (ii) not limit scholarships to students of one school; and (iii) comply with Title VI of the Civil Rights Act of 1964. Scholarship foundations are also be required to ensure that schools selected by students to which tax credit-derived funds may be paid (i) are in compliance with the Commonwealth's and locality's health and safety laws and codes; (ii) hold a valid occupancy permit as required by the locality; (iii) comply with Title VI of the Civil Rights Act of 1964; and (iv) comply with nonpublic school accreditation requirements administered by the Virginia Council for Private Education or maintain an assessment system that annually measures scholarship students' progress in reading and math using a national norm-referenced achievement test.

Eligible schools are required to compile the results of any national norm-referenced achievement test for each of its students receiving tax credit-derived scholarships and provide the respective parents or legal guardians of such students with a copy of the results on an annual basis, beginning with the first year of testing of the student. Such schools are also be required to provide the Department of Education the annual achievement test results for each student, as well as student information that would allow the Department of Education to aggregate the achievement test results by grade level, gender, family income level, number of years of participation in the scholarship program, and race. Beginning with the third year of testing of each such student and test-related data collection, the Department of Education is required to publish the achievement test results and associated learning gains on the Department of Education's website in accordance with such classifications and in an aggregate form as to prevent the identification of any student. Eligible schools are required to provide to the Superintendent of Public Instruction graduation rates of its students participating in the scholarship program in a manner consistent with nationally recognized standards. In publishing and disseminating achievement test results and other information, the Superintendent of Public Instruction and the Department of Education are required to comply with all student privacy laws.

The aggregate amount of scholarships provided to each child for any single school year by all eligible scholarship foundations from eligible donations cannot exceed the lesser of: (i) the actual qualified educational expenses, or (ii) 100 percent of the per-pupil amount distributed to the local school division in which the student resides as the state's share of the standards of quality costs using the composite index of ability to pay as defined in the general Appropriations Act.

Proposed Legislation

The STEM Education Tax Credit

This bill would allow taxpayers to claim a credit against the individual income tax, corporate income tax, bank franchise tax, insurance premiums license tax, or tax on public service corporations equal to 65 percent of the donation made to a STEM organization approved by the Department of Education. The credit would be claimed for the taxable year in which the donation was made.

For individuals and corporations making estimated tax payments, the credit would be prorated equally against the taxpayer's estimated tax payments made in the third and fourth quarters of the taxable year in which the credit is claimed and the final tax payment. No more than \$50,000 in tax credits would be issued to an individual or to married persons in a taxable year. The \$50,000 limitation would not apply to any business entity, including a sole proprietorship.

Tax credits would be issued by the Department of Education on a first-come, first-served basis. The total amount of credits available in any given fiscal year would be capped at \$25 million. Any unused tax credits would be carried over for the next five succeeding taxable years or until the total amount of credit has been taken, whichever is sooner.

Taxpayers would be required to request and receive preauthorization for a specified tax credit amount from the Superintendent of Public Instruction. The preauthorization notice would accompany the donation from the taxpayer to the STEM organization. The STEM organization would be required to return the notice to the Department of Education within 20 days certifying the amount of the donation and date received. A taxpayer would be required to make the preauthorized contribution within 60 days of issuance of the notice.

In addition to being preauthorized, taxpayers claiming credit for a contribution would be required to submit verification from each scholarship foundation to which monetary donations have been made.

Requirements for STEM Organizations

For purposes of the credit, a "STEM organization" would be defined as a nonstock, nonprofit corporation that is exempt from taxation under IRC § 501(c)(3), is approved by the Department of Education, and provides, as part of its mission, support for STEM education and STEM programs.

A "STEM program" would be defined as an academic class, curriculum, or activity focused on a STEM discipline at a qualified school. A STEM program would include classes focused primarily on a STEM discipline; modules, projects, or activities focused on a STEM discipline in any academic class; extracurricular activities whose primary objective is to engage students in STEM-related activities; summer school activities focusing on STEM education, regardless of whether such activities are held at the school or at a remote location; and textbooks, equipment, or other supplies used specifically for such classes, curricula, or activities.

The STEM organizations would be required to disburse at least 90 percent of the amount of each donation for which a tax credit is received to qualified schools for use in science, technology, engineering, and math programs. In awarding such funds, the STEM organization would be required to designate the particular STEM-related program or purpose for which the funds are being provided. No tax credit-derived funds could be provided to schools for general education purposes or for overhead costs.

Tax credit-derived funds not used for such purposes could be used only for the administrative expenses of the STEM organization. Any STEM organization that fails to use the funds for the purposes set forth in this bill would be removed from the annual list

published by the Department of Education and would not be entitled to request preauthorization for additional tax credits, nor would it be entitled to receive and administer additional tax credit-derived funds.

By September 30 of each year, the STEM organization would be required to provide the following information to the Department of Education:

- The total number and dollar amount of contributions received between September 1 of the prior calendar year and September 1 of the current calendar year,
- The dates when such contributions were received,
- The schools to which the STEM organization provided the tax credit-derived funds, and
- The programs for which the funds were designated.

The Department of Education would publish on its website an annual list of qualified STEM organizations. Once an organization is qualified, it would remain qualified until the Department of Education removes it from the annual list. The Department of Education would be required to remove an organization from the annual list if it no longer meets the requirements. The Department of Education would also publish an annual list of qualified schools eligible to receive tax credit-derived funds from STEM organizations.

The Department of Education would be required to develop guidelines implementing the provisions of this bill. Such guidelines would be exempt from the Administrative Process Act.

This credit would be effective for taxable years beginning on and after January 1, 2014, but before January 1, 2019.

Similar Legislation

Senate Bill 848 would create a tax credit for scholarships to students attending Virginia two-year colleges.

House Bill 1512 would create an income tax subtraction for income from the lease of a building to a local public school division.

cc : Secretary of Finance

Date: 1/7/2013 klc
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